

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Reissue Patent Application of:	)	Attorney Docket No. 23439-051-701	
	)	(Formerly 47382.000060)	
James H. JOHNSON, <i>et al.</i>	)	Group Art Unit: 3642	FAX RECEIVED
	)		
Serial No.: 09/667,693	)	Confirmation No. 1007	NOV 02 2001
	)		
Filed: September 22, 2000	)	Examiner: Not yet assigned	PETITIONS OFFICE
For: SPEED AND ACCELERATION MONITORING DEVICE USING VISIBLE LASER BEAMS			

**RESPONSE TO DISMISSAL OF APPLICANTS' PETITION UNDER 37 C.F.R. § 1.47**

**Box DAC: Attn: Alesia M. Brown**  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the dismissal notice mailed September 6, 2001 ("dismissal notice") and in accordance with the guidance of Petitions Attorney Alesia M. Brown, Applicants respectfully submit a copy of the reissue declaration originally filed April 26, 2001.

The dismissal notice states that Petitioners lack a declaration in compliance with 35 U.S.C. §§ 115 and 116. However, Applicants respectfully submit that a reissue declaration was filed on April 26, 2001. In an October 11, 2001 telephone interview with Petitions Attorney Alesia M. Brown, applicant's representative was instructed to submit a copy of the April 26, 2001 declaration for further consideration by the Petitions Attorney.

Applicants and Applicants' representative thank Petitions Attorney Brown for the courtesies extended during the telephone conference. Applicants' representative

RESPONSE TO DISMISSAL OF APPLICANTS'  
PETITION UNDER 37 C.F.R. §1.47  
U.S. Application Serial No. 09/667,693  
Attorney Docket No. 23439-051-701

respectfully submit that he may be reached at 703-464-8159 if the Petition under 37  
C.F.R. § 1.47 is still found to be lacking.

Respectfully submitted,

Mintz Levin Cohn Ferris Glovsky and Popeo, PC

Dated: November 2, 2001

By: 

Christopher J. Cuneo  
Registration No. 42,450

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO, PC  
11911 FREEDOM DRIVE, SUITE 400  
RESTON, VA 20190  
TELEPHONE (703) 464-8159  
FACSIMILE (703) 464-4895

RES 55107v1



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Paper No. 6

JAMES G. GATTO  
 HUNTON & WILLIAMS  
 1700 K STREET, NW  
 WASHINGTON, DC 20006-1109

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SEP 6 2001

OFFICE OF PETITIONS

In re Reissue Application of  
 Johnson, et al.  
 Application No. 09/667,693  
 Filed: September 22, 2000  
 Atty. Dkt. No. 47382.000060  
 Title: SPEED AND ACCELERATION  
 MONITORING DEVICE USING  
 VISIBLE LASER BEAMS

DECISION DISMISSING  
 PETITION UNDER 37 CFR  
 1.47(b)

 RECEIVED  
 SEP 26 2001

This is in response to the petition under 37 CFR 1.47(b) filed April 26, 2001.

The petition is DISMISSED.

 MINTZ LEVIN COHN FERRIS  
 GLOVSKY and POPEO PC

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

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PETITIONS OFFICE

The above-identified reissue application was filed September 22, 2000 without an executed oath or declaration and naming James H. Johnson and John DiDomenico as joint inventors. Accordingly, on October 26, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing. The instant petition and request for extension of time were filed in response.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

Petitioner lacks item(2) set forth above.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 has not been presented. The declaration submitted herewith is unacceptable as it does not indicate the post office address and residence of either of the named inventors. Additionally, the declaration has not been executed. An oath or declaration

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signed by one other than a named inventor should be executed by a corporate officer of the assignee company, such as the president, vice president, secretary, or treasurer on behalf of and as agent for the non-signing inventor. The name, address, and title of the corporate officer should be included. Petitioner's attention is directed to MPEP 409.03(b) for further guidance.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By FAX: (703) 308-6916  
Attn.: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23  
2201 S. Clark Place  
Arlington, VA

Telephone inquiries regarding this decision should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

*Christina T. Partera for*  
Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

PATENT  
Attorney Docket No. 47382.000060

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors:	James H. JOHNSON	)	
	John DIDOMENICO	)	
Original Patent No.:	5,812,249	)	FAX RECEIVED
Original Issue Date:	September 22, 1998	)	NOV 02 2001
Reissue Application No.:	09/667,693	)	PETITIONS OFFICE
Filing Date:	September 22, 2000	)	

PETITION TO ACCEPT REISSUE DECLARATION EXECUTED BY ASSIGNEE DUE  
TO MISSING AND UNWILLING INVENTORS AND  
PETITION FOR EXTENSION OF TIME

Assistant Commissioner of Patents  
Washington, D.C. 20231

Sir:

**PETITION TO ACCEPT REISSUE DECLARATION EXECUTED BY ASSIGNEE DUE  
TO MISSING AND UNWILLING INVENTORS**

Responsive to the Notice to File Missing Parts of Reissue Application mailed October 26,  
2000, this is a petition under 37 C.F.R. § 1.47(b) for the Commissioner to accept a reissue  
declaration executed by the assignee of the above referenced patent.

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The following associated materials are enclosed:

- 1) petition fee of \$130.00;
- 2) late declaration surcharge of \$130.00;
- 2) Reissue Application Declaration by Assignee; and,
- 3) Declaration in Support of Petition to Accept Reissue Declaration Executed by Assignee (and associated exhibits).

Petitioner has been unsuccessful in gaining the cooperation of either named inventor after diligent effort. Therefore, petitioner respectfully requests that the Patent Office accept the enclosed reissue declaration executed by the assignee's representative. Petitioner believes the enclosed Reissue Application Declaration by Assignee fulfills the oath required by 37 CFR 1.63 and 1.64 or 1.175. The relationship to the inventor is made clear in that petitioner has previously provided a certificate pursuant 37 CFR 3.73(b) demonstrating its position as assignee of the original application and fulfilling 37 CFR 1.47(b). The attached Declaration in Support of Petition to Accept Reissue Declaration Executed by Assignee is believed to provide sufficient proof that the inventors (1) cannot be found or reached after diligent effort or (2) refuse to execute the application papers. The last known addresses of the inventors are:

James H. Johnson  
Residence: Tucson, Arizona  
Post Office Address: 4401 W. Crestview Road, Tucson, AZ 85475  
Citizenship: U.S.A.

John DiDomenico  
Residence: Tucson, Arizona  
Post Office Address: 8810 E. Bear Paw Place, Tucson, AZ 85749  
Citizenship: U.S.A.

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The filing of the application was necessary to preserve the rights of the parties or prevent irreparable harm. The original patent was wholly or partially inoperative or invalid by virtue of the applicants claiming less than they were entitled to claim. A broadening reissue was necessary to correct these errors. The application was filed on the last day that a broadening reissue is available pursuant 35 USC § 251 in order to prevent loss of the right to correct the patent.

Entry of the enclosed Reissue Application Declaration by Assignee is hereby respectfully requested.

**PETITION FOR EXTENSION OF TIME**

Petitioner respectfully requests an extension of time for four months from the original responsive filing deadline of December 26, 200 to April 26, 2001. Enclosed is the petition fee of \$1390.00 pursuant 37 CFR 1.136 and 1.17(a).

**CONCLUSION**

A check in the amount of \$1650.00 is enclosed to cover the three fees identified above. Petitioner believes no additional fees to be necessary. However, in the event that the enclosed fees are insufficient, the Commissioner is hereby authorized to charge any fee deficiency to Deposit Account No. 50-0206.

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Petitioner would be happy to provide any further information or assistance which may help expedite the petition. If such additional information or assistance is desired, please contact petitioner at the telephone number below.

Respectfully submitted,

Hunton &amp; Williams

Dated: April 26, 2001

  
Devin S. Morgan, Reg. No. 45,562

1900 K Street NW  
Washington, D.C. 20006  
(202) 955-1500